

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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IN REPLY PLEASE
REFER TO FILE: WM-5

April 8, 2004

The Honorable Board of Supervisors County of Los Angeles 383 Kenneth Hahn Hall of Administration 500 West Temple Street Los Angeles, CA 90012

Dear Supervisors:

TUJUNGA WASH RESTORATION PROJECT MEMORANDUM OF UNDERSTANDING AND COOPERATIVE AGREEMENT SUPERVISORIAL DISTRICT 3 3 VOTES

IT IS RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT:

- Adopt the enclosed Memorandum of Understanding and Cooperative Agreement between the Los Angeles County Flood Control District and the Mountains Recreation and Conservation Authority (MRCA) for the Tujunga Wash Restoration Project that identifies project and financial responsibilities related to the design, implementation, and maintenance of the project.
- Authorize the Los Angeles County Flood Control District to finance \$1,050,000 for the project as specified in the enclosed Agreement. The total project cost is estimated at \$7,725,000. Remaining funds for the Project will be reimbursed through grants or other third-party funding sources secured by the District or MRCA. Public Works will return to your Board for final acceptance of any grants received.
- Authorize the Director of Public Works or his designee to amend or modify the scope of work and/or financial responsibilities identified in the enclosed

Agreement with MRCA, as necessary, based on available project funding or other recommendations derived from Public Works or the MRCA.

- Find that the project is exempt from the provisions of the California Environmental Quality Act (CEQA).
- 5. Instruct the Chairman to sign the Agreement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Tujunga Wash is a 9-mile rectangular concrete channel that extends from Hansen Dam to the Los Angeles River through the San Fernando Valley in the City of Los Angeles. Through a stakeholder-driven process, several alternatives were evaluated for enhancing landscaping and recreational opportunities along Tujunga Wash. The recommended project is along both banks of the Tujunga Wash, from Vanowen Street to Oxnard Street. The project will create an alternative meandering streamcourse along the west channel bank; add pathways for walking and biking along either side of Tujunga Wash; and incorporate rest area amenities, interpretive signage, and appurtenant structures. All project improvements will be within the existing District right of way.

The constructed streamcourse will accept low flows diverted from the Tujunga Wash and meander throughout the 6,000-foot project reach, from Vanowen Street to Oxnard Street. Downstream flows will outfall back into Tujunga Wash. Through this process, water quality and groundwater replenishment will be enhanced through natural processes. The east side of the channel will consist of various greenway improvements, including a bike path, walkway, landscaping, and other amenities.

Public Works, MRCA, and Supervisorial District 3 have worked closely together during the development of the Tujunga Wash Restoration Project. Several community meetings, including a tour of similar riverfront parks, were held during the early stages of the project to solicit input for the development of the proposed improvements. The resulting project, therefore, has strong support from the Valley Glen Community Council and other residents within the area.

Various grants have been received for this project. MRCA has received grants through the County of Los Angeles Proposition A and the California Department of Water Resources Urban Streams Restoration Program totaling \$3,525,000. Public Works has been awarded \$1,900,000 through Proposition 12 and is expected to soon enter into a grant agreement with the California Resources Agency regarding these funds. Public

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Works will return to your Board for final grant acceptance. Public Works will also allocate \$1,050,000 of District funding for the project. Public Works and MRCA will cooperate to modify the scope of work, if necessary, and/or seek additional third-party funding to complete the project.

Once constructed, MRCA and Public Works will cooperate in the maintenance of the project. MRCA will maintain the greenway improvements that would include the maintenance of the streambed, landscaping, irrigation lines, benches and other rest area amenities, trash receptacles, and graffiti abatement. Public Works will maintain the piping and other hydraulic structures related to the diversion of flow between the Tujunga Wash channel and the constructed stream.

Implementation of Strategic Plan Goals

This action is consistent with the County Strategic Plan Goal of Organizational Effectiveness by utilizing a collaborative effort to implement the project. This action also is consistent with the Strategic Plan Goal of Fiscal Responsibility as the majority of funding for the project is a result of grant awards and other third-party sources. This action also meets the Strategic Plan Goal of Service Excellence by increasing recreational opportunities and environmental benefits and improving the quality of life for citizens of the County of Los Angeles.

FISCAL IMPACT/FINANCING

The total cost of the project is estimated at \$7,725,000. The District will finance \$1,050,000. Sufficient funds are available to the District and have been budgeted for Fiscal Years 2003-04 and 2004-05. The remaining project cost will be reimbursed through grants or third-party sources.

Public Works will enter into a grant agreement with the California Resources Agency for a Proposition 12 grant award of \$1,900,000. At that time, Public Works will return to your Board for final grant acceptance, project approval, and contract award. We will also request any Appropriation Adjustment that might be required.

Public Works will share in the annual maintenance of the project as described in the enclosed Agreement. Financing for Public Works' share of maintenance costs is available from the District.

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FACTS AND PROVISIONS/LEGAL REQUIREMENTS

All necessary permits and clearances will be received from the appropriate Federal, State, or other regulatory or jurisdictional agency during the design and/or construction phases, as appropriate. The project is consistent with the vision outlined in the Los Angeles River Master Plan, adopted by the Board of Supervisors in 1996.

The enclosed Agreement was executed by MRCA on April 1, 2004, and has been reviewed and approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

On June 13, 1996, Synopsis 16, your Board approved a programmatic Negative Declaration/Environmental Assessment, which determined that the Los Angeles River Master Plan, which proposes landscaping and recreational improvements along the Los Angeles River and Tujunga Wash, would not create a significant effect on the environment. Following that, the Tujunga Wash Restoration Project was determined categorically exempt pursuant to Section 15304, Class 4 of the California Environmental Quality Act. A Notice of Exemption was filed with the Registrar-Recorder/County Clerk's office on May 21, 2002.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The project will have no adverse impact on current services. This project will provide public access along a reach of the Tujunga Wash, therefore, creating a multiuse facility consistent with the Los Angeles River Master Plan and Public Works' goals of watershed management. The project is in the general interest of Public Works and will provide increased recreational opportunities and improve the quality of life for citizens of the County.

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CONCLUSION

Please return three fully executed originals of this letter and the enclosed Agreement to Public Works.

Respectfully submitted,

JAMES A. NOYES

Director of Public Works

MC:sv/dbm

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Enc.

cc: Chief Administrative Office

County Counsel

MEMORANDUM OF UNDERSTANDING AND COOPERATIVE AGREEMENT

This Memorandum of Understanding and Cooperative Agreement, hereinafter referred to as "AGREEMENT," made and entered into by and between the Los Angeles County Flood Control District, hereinafter referred to as "DISTRICT," and the MOUNTAINS RECREATION AND CONSERVATION AUTHORITY, a joint powers entity created pursuant to California Government Code Section 6500, et seq., hereinafter referred to as "MRCA."

WITNESSETH

WHEREAS, DISTRICT and MRCA desire to improve aesthetics and passive recreational amenities for approximately 65 feet along each side of Tujunga Wash between Vanowen Street and Oxnard Street, that is proposed to be accomplished by creating an alternative naturalized stream course on the west side of the channel bank; adding native trees, shrubs, and perennials; creating pathways for walking and/or biking along each side of the Tujunga Wash; incorporating rest area amenities, interpretive signage, and appurtenant structures; which work is collectively hereinafter referred to as "PROJECT"; and

. WHEREAS, PROJECT lies entirely within DISTRICT right-of-way; and

WHEREAS, PROJECT is of general interest to DISTRICT and MRCA and proposes to provide ecological benefits, increase recreational opportunities, enhance water quality, and improve the quality of life for the citizens residing within the boundaries of the DISTRICT; and

WHEREAS, the total "COST OF PROJECT", which includes the costs of PRELIMINARY ENGINEERING, CONSTRUCTION ADMINISTRATION, and CONSTRUCTION (as said terms are defined below) is expected to amount to approximately Seven Million Seven Hundred Twenty Five Thousand and 00/100 Dollars (\$7,725,000); and

WHEREAS, MRCA applied for and obtained Three Million and 00/100 Dollars (\$3,000,000) from County of Los Angeles Proposition A funds (Proposition A grant) to allocate to the COST OF PROJECT, and Five Hundred Twenty Five Thousand and 00/100 Dollars (\$525,000) from an Urban Stream Restoration Grant from the California Department of Water Resources (Department of Water Resources grant) to allocate to stream related work included in COST OF PROJECT; and

WHEREAS, DISTRICT applied for and received notification of award for One Million Nine Hundred Thousand and 00/100 Dollars (\$1,900,000) from California Resources

Agency Proposition 12 funds to allocate to landscaping, recreational, and other greenway work included in COST OF PROJECT; and

WHEREAS, DISTRICT shall finance an additional One Million Fifty Thousand and 00/100 Dollars (\$1,050,000) to apply to COST OF PROJECT and any excess balance of these funds over COST OF PROJECT would return to DISTRICT; and

WHEREAS, to the extent the above funds are available, they shall be applied to compensate DISTRICT and MRCA as set forth in this AGREEMENT; and

WHEREAS, MRCA and DISTRICT will cooperate with each other to seek all necessary funding from third-party sources to pay the COST OF PROJECT;

NOW, THEREFORE, in consideration of the mutual benefits derived by DISTRICT and MRCA through this AGREEMENT and promises contained herein, it is hereby agreed as follows:

(1) MRCA AGREES:

- a. To perform the PRELIMINARY ENGINEERING, CONSTRUCTION ADMINISTRATION, AND CONSTRUCTION for the PROJECT including, but not limited to, conceptual stream design, preparation of architectural and landscaping plans, specifications, and cost estimates, and physical construction and construction administration for PROJECT except for the PRELIMINARY ENGINEERING, CONSTRUCTION ADMINISTRATION and physical CONSTRUCTION that the DISTRICT agrees to perform for a portion of the PROJECT pursuant to Sections (2) a. and (2) b. below.
- To perform work identified in (1) a. to meet applicable DISTRICT standards.
- To commence CONSTRUCTION for PROJECT either concurrent with or immediately following DISTRICT'S work under Section (2) a. below.
- d. To prepare and obtain all necessary environmental documents and environmental permits required for PROJECT in compliance with the California Environmental Quality Act, applicable local ordinances, state and federal laws, including those documents and permits applicable to portions of the PROJECT to be constructed by DISTRICT.
- e. To obtain and maintain all licenses required by local, state, and federal law applicable to the construction and/or operation of the PROJECT and to provide the services pursuant to this AGREEMENT. MRCA shall incur the

- aforementioned costs and shall not include them as part of COST OF PROJECT.
- f. To obtain and maintain all necessary permits for the PROJECT, related to work to be performed by MRCA, at no cost to DISTRICT, including, without limitation, construction permits and environmental permits and/or clearances in connection with MRCA'S activities pursuant to Section (1) o. below.
- g. To obtain DISTRICT'S written approval of all work associated with PRELIMINARY ENGINEERING prior to advertising the PROJECT for construction bids.
- h. To apply a minimum of Three Million Five Hundred Twenty-five Thousand and 00/100 Dollars (\$3,525,000) for COST OF PROJECT from the Proposition A and Department of Water Resources grants, contingent upon receipt of this funding from the County of Los Angeles Proposition A grant administrator and California Department of Water Resources.
- i. To reimburse DISTRICT for a portion of the COST OF PROJECT, not to exceed Two Hundred Thousand and 00/100 Dollars (\$200,000), or other amount mutually agreed upon by DISTRICT and MRCA, based upon funds provided by a grant from California Department of Water Resources, and upon the full execution of this AGREEMENT, receipt of invoice from DISTRICT, and reimbursement of such invoice from California Department of Water Resources.
- j. To reimburse DISTRICT for a portion of the COST OF PROJECT, not to exceed Nine Hundred Thousand and 00/100 Dollars (\$900,000), or other amount mutually agreed upon by DISTRICT and MRCA, based upon funds provided by a Proposition A grant from County of Los Angeles, and upon the full execution of this AGREEMENT, receipt of invoice from DISTRICT, and reimbursement of such invoice from County of Los Angeles grant administrator.
- k. To furnish DISTRICT cost accounting information and description of work completed, on a monthly or quarterly basis, as mutually agreed upon by DISTRICT and MRCA, along with final accounting information upon completion of PROJECT.
- To periodically invoice DISTRICT no more frequently than monthly and in accordance with the appropriate grant requirements of the California Resources Agency, for a portion of the COST OF PROJECT not to exceed One Million Nine Hundred Thousand and 00/100 Dollars (\$1,900,000), and

DISTRICT will in turn provide such invoice to California Resources Agency to complete the reimbursement.

- m. To fulfill all requirements of the Proposition A grant and make a good faith effort to fulfill all requirements of the Department of Water Resources grant.
- To obtain DISTRICT'S prior written approval of any requested changes in PRELIMINARY ENGINEERING, CONSTRUCTION ADMINISTRATION, and/or CONSTRUCTION associated cost to PROJECT.
- To, upon completion of construction, and at no cost to DISTRICT, operate and maintain PROJECT in good repair, excluding DISTRICT responsibilities identified in (2) j. below, at sole cost to MRCA (not to be included as part of COST OF PROJECT) and in perpetuity, including the following at a level of service acceptable to DISTRICT and in a clean and orderly manner:
 - Provide sweeping of walking and bicycle trails.
 - Repair or replace all damaged, defaced, or illegible signs associated with the recreational trails or the rest area amenities.
 - Remove graffiti from rest area, benches, signs, fencing, or other areas adjacent to the recreational trails.
 - Inspect rest area, signs, fencing, or other areas and structures adjacent to the recreational trails to determine the need for graffiti removal or signage maintenance.
 - Remove trash from receptacles and along recreational trails.
 - Provide cleaning and maintenance of shade structures, picnic tables, benches, bicycle racks, and other rest area amenities.
 - Maintain all landscaping improvements and associated irrigation system.
 - 8. Hand water any landscaping improvements associated with PROJECT that are not serviced by an irrigation line.
 - Maintain all vegetation and related streambed maintenance functions.
 - Maintain all temporary and permanent irrigation lines in accordance with approved irrigation plans and in good working order.

- Without relieving or diminishing MRCA of its primary responsibilities herein, provide DISTRICT the names and contact information for person(s) responsible for the maintenance activities set forth in this AGREEMENT.
- Handle community relations and respond to public inquiries related to the recreational and ecological functions of PROJECT.
- Allow any required access and modifications to PROJECT by DISTRICT, both during and after construction of PROJECT, for water conservation, flood control, or any other authorized action consistent with DISTRICT operations and maintenance purposes.
- 14. The level of operation and maintenance for Sections (1)o.1. through (1)o.10. of this AGREEMENT need not be in excess of that commonly required and practiced by DISTRICT or the County of Los Angeles for comparable park facilities owned or maintained by DISTRICT or the County of Los Angeles.

(2) DISTRICT AGREES:

- a. To perform that portion of the PRELIMINARY ENGINEERING, CONSTRUCTION ADMINISTRATION, and CONSTRUCTION that is needed for storm drains, related hydraulic structures, and rough stream grading defined as primary stream excavation for the PROJECT.
- To perform that portion of the PRELIMINARY ENGINEERING for PROJECT involving design survey; geotechnical and environmental investigations; and preparation of engineering and geomorphic design plans, specifications, and cost estimates.
- c. To review all work associated with PRELIMINARY ENGINEERING and approve the work to meet DISTRICT'S then applicable standards including work referred to in Section (1) a. and all work that can be defined as civil, structural, and geotechnical engineering under California law.
- d. To reimburse MRCA for a portion of the COST OF PROJECT, not to exceed One Million Nine Hundred Thousand and 00/100 Dollars (\$1,900,000), based upon funds provided by a grant from California Resources Agency, but only upon the full execution of this AGREEMENT and receipt of invoices from MRCA.
- To furnish MRCA cost accounting information and description of work completed, on a monthly or quarterly basis, as mutually agreed upon by

DISTRICT and **MRCA**, along with final accounting information upon completion of **PROJECT**.

- f. To periodically invoice MRCA, in accordance with the appropriate grant requirements of the California Department of Water Resources funds, for a portion of the COST OF PROJECT not to exceed Two Hundred Thousand and 00/100 Dollars (\$200,000) or other amount mutually agreed upon by MRCA and DISTRICT, and MRCA will in turn provide such invoice to California Department of Water Resources to complete the reimbursement.
- g. To periodically invoice MRCA, in accordance with the appropriate grant requirements for County of Los Angeles Proposition A funds, for a portion of the COST OF PROJECT not to exceed Nine Hundred Thousand and 00/100 Dollars (\$900,000) or other amount mutually agreed upon by MRCA and DISTRICT, and MRCA will in turn provide such invoice to County of Los Angeles.
- h. To accept reimbursement from MRCA for work performed by DISTRICT, as part of the Urban Streams Restoration Program and Proposition A funded work, following in a timely manner MRCA'S reimbursement of said grant funding from California Department of Water Resources and County of Los Angeles.
- To provide MRCA with approval or disapproval of any requested changes in work and associated cost to PROJECT within ten (10) days of receipt of request from MRCA.
- j. To expedite DISTRICT permitting and waive DISTRICT fees including but not limited to those related to property use, grading, and construction, without waiving any requirements of MRCA contained elsewhere in this AGREEMENT or the need for MRCA to meet DISTRICT'S standard permit requirements, or any requirements prescribed by law, including under the Los Angeles County Code.
- k. To, upon completion of construction, and at no cost to MRCA, assume the following responsibilities to operate and maintain PROJECT, at sole cost to DISTRICT and not to be included as part of COST OF PROJECT, in good condition:
 - Provide operation and maintenance for all storm drains or related hydraulic structures associated with PROJECT, including maintaining and conveying flow to constructed stream and making periodic adjustments to flowrate as requested by MRCA, subject to the physical limits or the availability of water.

- Restrict public access during storms, extensive maintenance activity periods, or for other safety or security considerations.
- Maintain all security fences and gates, with the exception of graffiti removal agreed upon by MRCA as set forth in this AGREEMENT.

(3) IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

- a. PRELIMINARY ENGINEERING, as referred to in this AGREEMENT, means environmental documentation and permits; design survey; geotechnical and environmental investigations; preparation of engineering and geomorphic design plans, specifications, and cost estimates; preparation of architectural and landscaping plans, specifications, and cost estimates; and all other necessary work prior to advertising of PROJECT for construction bids.
- b. CONSTRUCTION ADMINISTRATION, as referred to in this AGREEMENT, shall consist of construction contract administration, preparation of a Stormwater Pollution Prevention Plan as defined in the County of Los Angeles Municipal Stormwater Permit and required by the statewide general construction activities permit, construction inspection, materials testing, construction survey, changes and modification of plans and specifications for PROJECT, necessitated by unforeseen or unforeseeable field conditions encountered during construction of PROJECT, and all other necessary work after advertising of PROJECT for construction bids to cause PROJECT to be constructed in accordance with said plans and specifications approved by DISTRICT.
- Work to be performed in Section (1) a. and Section (2) a. above shall be completed through two separate contracts, administered by the MRCA and DISTRICT, respectively.
- DISTRICT reserves the right to make payments to MRCA conditional based on DISTRICT inspection and acceptance of work.
- MRCA reserves the right to make payments to DISTRICT conditional based on the construction of the stream and hydraulic structures meeting the design criteria mutually agreed upon by MRCA and DISTRICT.
- f. Both DISTRICT and MRCA'S obligations to fund the COST OF PROJECT, under this AGREEMENT, are subject to availability and disbursement of funds granted by the California Resources Agency, California Department of Water Resources, and County of Los Angeles Proposition A grant funds.

- g. MRCA shall not hold DISTRICT responsible legally or financially for the failure to obtain grant monies resulting from MRCA'S failure to fulfill the terms and conditions of the California Resources Agency grant.
- h. DISTRICT shall not hold MRCA responsible legally or financially for the failure to obtain grant monies resulting from DISTRICT'S failure to fulfill the terms and conditions of the California Department of Water Resources or the County of Los Angeles Proposition A grants.
- i. Notwithstanding any other provision in this AGREEMENT, any inspections, reviews and/or approvals by the DISTRICT of any work performed by or on behalf of MRCA shall not relieve or excuse MRCA from any of its obligations in this AGREEMENT, including meeting applicable standards, or its maintenance obligations. However, MRCA shall not be held responsible for civil, structural, and/or geotechnical engineering performed for the PROJECT by DISTRICT.
- j. MRCA shall appoint its Executive Officer, or designated representative as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, and payment requests, which may be necessary for completion of PROJECT.
- k. Any site specific liability insurance needed by MRCA that is required to be procured, over and above the general liability insurance currently held by MRCA, may be included in COST OF PROJECT, as permissible by grantors or other third-party funding sources. However, DISTRICT funds shall not be used to pay for any part of said liability insurance.
- I. Upon DISTRICT'S acceptance of PROJECT, DISTRICT hereby grants MRCA permission to occupy and use DISTRICT owned right of way necessary for the operation, maintenance, and repair or replacement of PROJECT pursuant to this AGREEMENT, not associated with storm drains or related hydraulic structures, and at no cost to MRCA. Notwithstanding the foregoing, MRCA acknowledges that this AGREEMENT does not transfer any ownership of the PROJECT, or any property rights, to the MRCA. To the extent consistent with normal operations of the DISTRICT, nothing in this AGREEMENT shall interfere with the MRCA'S right to enforce MRCA Park Ordinance No. 1-2003(a), as it is now written and may from time to time be amended.
- m. Nothing in this AGREEMENT shall prevent the DISTRICT from operating or modifying the PROJECT in any manner inconsistent with this AGREEMENT as may be required by the DISTRICT or the County of Los Angeles to fulfill flood control, water conservation, or other functions under the Los Angeles

County Flood Control Act. Without otherwise relieving MRCA of its obligations explicitly set forth in this AGREEMENT, the MRCA shall not be held liable for damage or liability caused to third parties as a result of acts of the DISTRICT undertaken to fulfill flood control, water conservation, or other functions under the Los Angeles County Flood Control Act that may be inconsistent with this AGREEMENT. Notwithstanding the foregoing, if the DISTRICT modifies the PROJECT in a manner that prevents MRCA from performing its operation or maintenance functions set forth in Section (1) o. above, MRCA shall be excused from those obligations in Section (1) o. of this AGREEMENT that the MRCA will no longer be able to perform.

MRCA hereby releases the **DISTRICT**, the County of Los Angeles, and its special districts, officials, representatives and/or agents from any and all liability relating to the operation or modification of the **PROJECT** in a manner different than as constructed pursuant to this **AGREEMENT**, except for damage, injury, or loss to any third-party attributable to the **DISTRICT'S** negligence or willful misconduct relating to subsequent changes to the operation or design of the **PROJECT** following completion of the **PROJECT** that are inconsistent with this **AGREEMENT**, in connection with which the **DISTRICT** shall indemnify the MRCA.

- n. Operation and maintenance costs associated with Sections (1) o. 1. through (1) o. 10., shall be borne entirely by the MRCA and said costs associated with Sections (2) k. 1. through (2) k. 3. shall be borne entirely by the DISTRICT; said costs shall not be covered under COST OF PROJECT.
- o. During construction of the portion of the PROJECT that does not relate to construction of storm drains or related hydraulic structures, MRCA shall furnish an inspector at no cost to DISTRICT. DISTRICT may also furnish, at no cost to MRCA, an inspector or other representative to inspect construction of PROJECT. Said inspectors shall cooperate and consult with each other. DISTRICT inspector shall not issue any directive(s) to the contractor, but shall work through MRCA inspector. The orders of MRCA'S inspector to the contractor or any other MRCA person in charge of construction shall prevail and be final.
- p. In contemplation of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement (as defined in Section 895 of said Code), each of the parties hereto, pursuant to the authorization contained in Sections 895.4 and 895.6 of said Code, will assume the full liability imposed upon it or any of its officers, agents, or employees by law for injury cause by any act or omission occurring in the

performance of this AGREEMENT to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above-stated purpose, each of the parties indemnifies and holds harmless the other party for any liability, cost, or expense that may be imposed upon such other party solely by virtue of said Section 895.2. The provisions of Section 2778 of the California Civil Code are made a part hereof as if incorporated herein.

- q. Notwithstanding the provisions of the above Subsection (3) p., MRCA shall indemnify, defend, and save harmless DISTRICT, County of Los Angeles, and its special districts, elected and appointed officers, agents, and employees from and against any and all liability and expense arising from the negligence or willful misconduct of MRCA, its officers, employees, agents, or subconsultants of any tier in the performance of the AGREEMENT, including defense costs, legal fees, claims, actions, and causes of action for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, or property damage (including damage to MRCA'S property).
- r. Notwithstanding the provisions of the above Subsection (3) p., DISTRICT shall indemnify, defend, and save harmless MRCA, elected and appointed officers, agents, and employees from and against any and all liability and expense arising from the negligence or willful misconduct of DISTRICT, its officers, employees, agents, or subconsultants of any tier in conjunction with the performance of AGREEMENT, including defense costs, legal fees, claims, actions, and causes of action for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, or property damage (including damage to DISTRICT'S property).
- Without limiting MRCA'S obligations to indemnify DISTRICT, during the term S. of this AGREEMENT, MRCA shall provide and maintain at its own expense or ensure that its contractor(s) provide and maintain a program of general liability insurance covering its operations hereunder. Such program and evidence of insurance shall be satisfactory to DISTRICT and primary to and not contributing with any other insurance maintained by DISTRICT. Certificate(s) or other evidence of coverage shall be delivered to DISTRICT prior to commencing service under this AGREEMENT, and shall contain the expressed condition that DISTRICT is to be given written notice by registered mail at least forty-five (45) days in advance of any modification or termination of insurance. Such insurance shall be endorsed naming DISTRICT and the County of Los Angeles as additional insured and shall include general liability insurance written on a commercial general liability form or on a comprehensive general liability form covering the hazards of premises/operations, contractual, independent contractors, advertising,

products/completed operations, broad form property damage, and contractual, independent contractor, and personal injury with a combined single-limit of not less than One Million and 00/100 Dollars (\$1,000,000) per occurrence.

- If written with an annual aggregate limit, the policy limit should be three (3) times the above-required occurrence limit.
- If written on a claim form, MRCA shall be required to provide an extended two-year reporting period commencing upon termination or cancellation of this AGREEMENT.

A certificate evidencing such insurance coverage shall be filed with DISTRICT prior to MRCA providing service hereunder.

t. MRCA shall provide and maintain at its own expense or ensure that its contractor(s) provide and maintain a program of workers' compensation insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California including Employer's Liability with a One Million and 00/100 Dollar (\$1,000,000) limit, covering all persons MRCA is legally required to cover.

A certificate evidencing such insurance coverage shall be filed with DISTRICT prior to MRCA providing service hereunder.

- Failure on the part of MRCA to procure and/or maintain required insurance shall constitute a material breach of contract upon which DISTRICT may immediately terminate this AGREEMENT.
- v. This AGREEMENT is by and between the DISTRICT and MRCA, without any third-party beneficiaries, and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between DISTRICT and MRCA.
- w. MRCA understands and agrees that all persons furnishing services to DISTRICT pursuant to this AGREEMENT are, for purposes of workers' compensation liability, employees solely of MRCA or contractor(s) and not of DISTRICT.

MRCA or contractor(s) shall bear the sole responsibility and liability for furnishing workers' compensation benefits to any person for injuries arising from or connected with services performed on behalf of MRCA pursuant to this AGREEMENT.

x. All personnel assigned to perform service under this AGREEMENT shall be employed and compensated in accordance with all applicable Federal, State, and local ordinances and laws, including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603). Such personnel shall treat residents in a courteous manner.

y. MRCA shall ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, ancestry, national origin, age, condition of physical or mental disability, marital status, or political affiliation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeship.

MRCA shall deal with its subcontractors, bidders, or vendors without regard to, or because of, race, color, religion, ancestry, national origin, sex, age, condition of physical or mental disability, marital status, or political affiliation.

MRCA shall allow DISTRICT representative access to its employment records during regular business hours to verify compliance with the provisions of this section when so requested by DISTRICT.

If DISTRICT finds that any of the above provisions have been violated, the same shall constitute a material breach of contract upon which DISTRICT may determine to cancel, terminate, or suspend this AGREEMENT. While DISTRICT reserves the right to determine independently that the antidiscrimination provisions of this AGREEMENT have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the MRCA has violated State or Federal antidiscrimination laws or regulations shall constitute a finding by DISTRICT that MRCA has violated the antidiscrimination provisions of this AGREEMENT.

The parties agree that in the event MRCA violates the antidiscrimination provisions of this AGREEMENT, DISTRICT shall, at its option, be entitled to a sum of Five Hundred and 00/100 Dollars (\$500) pursuant to California Civil Code, Section 1671, as liquidated damages in lieu of canceling, terminating, or suspending this AGREEMENT.

DISTRICT may, by written notice to MRCA, immediately terminate the right of MRCA to proceed under this AGREEMENT if it is found that consideration, in any form, was offered or given by MRCA, either directly or through an intermediary, to any DISTRICT officer, employee, or agent with the intent of securing this AGREEMENT or securing favorable treatment with respect to the award, amendment, or extension of this AGREEMENT or the making of any determinations with respect to MRCA's performance pursuant to this AGREEMENT. In the event of such termination, DISTRICT shall be entitled to pursue the same remedies against MRCA as it could pursue in the event of default by MRCA.

MRCA shall immediately report any attempt by a DISTRICT officer or employee to solicit such improper consideration. The report shall be made either to DISTRICT manager charged with the supervision of the employee or to County of Los Angeles' Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 554-6861.

Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel, entertainment, or tangible gifts.

- aa. MRCA and DISTRICT will cooperate in good faith to complete PROJECT with the funding set forth in the above recitals, in addition to monies from outside grants or third-party funding sources, and to pursue said funding; and all funding obtained for this PROJECT will be administered pursuant to the terms of this AGREEMENT; however, in case of a funding shortfall, this AGREEMENT shall be amended or modified in good faith by the parties to adapt the scope of the PROJECT to the available funding.
- bb. Each party shall have no financial obligation to the other party under this AGREEMENT, except as herein expressly provided.
- cc. The provisions of the AGREEMENT shall be interpreted and enforced pursuant to the laws of the State of California.

dd. Any correspondence, communication, or contract concerning this AGREEMENT shall be directed to the following:

MRCA:

Ms. Reva Feldman Chief Operating Officer Mountains Recreation and Conservation Authority 570 W. Avenue 26, Suite 100 Los Angeles, CA 90065

DISTRICT:

Mr. James A. Noyes
Director of Public Works

Attn: Watershed Management Division

County of Los Angeles Department of Public Works

P.O. Box 1460 Alhambra, CA 91802-1460

executed by their respective officers, duly a	the MOUNTAINS RECREATION AND, 2004.
ATTEST:	
COUNTY OF LOS ANGELES, acting on behalf of the Los Angeles County Flood Control District	MOUNTAINS RECREATION AND CONSERVATION AUTHORITY
8	2 1 5h1
Ву	MAN WIMELLE
Chair, Board of Supervisors	Jøseph T. Edmiston, FAICP Executive Officer
APPROVED AS TO FORM: LLOYD W. PELLMAN County Counsel	
By Relait Dfuff Deputy County Counsel	

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